REMARKS

By way of summary, Claims 1-24 were originally filed in the present application. No amendments have been made to these claims. Accordingly, Claims 1-24 are pending.

Claims 1-24 Are Not Unpatentable Over Fujino et al.

Claims 1-24 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-52 of Fujino et al. (U.S. Patent No. 6,691,023). Applicants respectfully disagree with the grounds for the rejection.

The claims of Fujino et al. differ from the pending claim as they do not recite, *inter alia*, the step of "displaying a chosen set of operational data on a display such that the data indicating a fault is distinguished from the data that does not indicate a fault" (Claim 1), or a "computer program further configured to display the operational data collected from the engine sensors through the interface device on the display such that the data indicating a fault is distinguished from operational data that does not indicate a fault" (Claim 15), or the step of "displaying the retrieved operational data on a display such that the data indicating a fault is distinguished from operational data that does not indicate a fault" (Claim 23).

Fujino et al. teaches that comparison data may be presented with the operational data without distinguishing the operational data indicating a fault, so that the technician or engineer can search for abnormalities or faults himself. *See* Col. 14, ll. 12-26. As it is often difficult for the technician or engineer to diagnose an engine malfunction in this manner, Fujino et al. further suggests that the information may be forwarded to an expert for further evaluation. *See* Col. 19, ll. 25-32. But the claims of Fujino et al. do not recite that the diagnostic system itself distinguish the operational data that indicates a fault.

In the Office Action, the Examiner acknowledges that the claims of Fujino et al.' do not disclose the above-recited limitations, but then summarily concludes that it would be obvious to one of skill in the art to so modify the method recited by the claims of Fujino et al. The Examiner, however, has not pointed to any evidence or prior art that would support this obviousness rejection. The Examiner is respectfully reminded that such an unfounded rejection, without support from the record, is impermissible. *See* M.P.E.P. § 2144.03 ("It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable

demonstration as being well-known"). *See also In re Zurko*, 258 F.3d 1379, 1385 (Fed. Cir. 2001). Applicants respectfully request that the Examiner provide specific references to the prior art that would make Claims 1-24 obvious over the subject matter recited by the claims of Fujino et al.

As set forth above, because the differences between the pending claims and the claims of Fujino et al. are not obvious in light of the knowledge of one of skill in the art at the time the invention was made, Applicants submit that these independent claims are in condition for allowance.

Claims 2-14, 16-22 and 24 depend from Claims 1, 15 and 23, respectively, and are patentable over Fujino et al. for at least the same reasons as Claims 1, 15 and 23. Applicants respectfully request the Examiner to withdraw the rejections to Claims 1-24 and to reconsider the claims.

Conclusion

In view of the foregoing remarks, Applicants respectfully request the Examiner to reconsider and allow the claims. If, however, some issues remain that the Examiner feels can be addressed by an Examiner's Amendment, the Examiner is cordially invited to call the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 21, 2005

By: _____

William H. Shreve
Registration No. 35,678
Attorney of Record
Customer No. 20,995
(949) 760-0404

H:\DOCS\JTE\Yamaha\FS.20111US0A Response to Office Action.doc
111704